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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)
)
Price Cap Performance Review) CC Docket No. 94-1
for Local Exchange Carriers)

COMMENTS OF AERONAUTICAL RADIO, INC.

Aeronautical Radio, Inc. ("ARINC"),¹ by its attorneys, hereby submits its comments on the Notice of Proposed Rulemaking in the above-captioned proceeding.² ARINC strongly supports the Commission's avowed goal under price caps to encourage efficiencies and innovation in the provision of interstate access services. Nonetheless, ARINC is concerned that the price cap rules have, in practice, undermined this goal by inequitably favoring the local exchange carriers ("LECs") over the public in the distribution of these benefits as well as the costs of upgrading the network. Accordingly, ARINC wishes to offer its views on Baseline Issues 3a-c, 4a-b, and 7a set out in the Notice.

¹ ARINC is the communications company of the air transport industry and is owned and operated by the airlines and other aircraft operators. ARINC provides the civil aviation community with a variety of voice and data telecommunication services on a not-for-profit basis and represents industry interests in regulatory and other forums. The airlines rely heavily upon interstate access services to support their nationwide and worldwide reservations systems. Accordingly, ARINC and the airlines are significantly affected by the decisions made in this proceeding.

² Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Notice of Proposed Rulemaking, released Feb. 16, 1994 ("Notice").

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1. Baseline Issues 3a-c and 4a-b

Initially, ARINC submits that the current 3.3/4.3 percent productivity offsets have clearly been demonstrated to be too low, while authorized earnings before sharing have been set too high.³ As a result, ratepayers have been denied substantial savings from lower rates while LEC shareholders have received supra-normal profits which have not been appropriately reinvested in their access plant. Such an uneconomic policy has undoubtedly had negative ripple effects throughout user industries such as the airlines.

Notably, the Commission selected its productivity factors despite substantial record support for higher levels.⁴ It rejected both AT&T's detailed study⁵ -- which pointed to a value closer to 4.5 percent for special access and 7 percent for switched access -- and the relevance of the California PUC's decision to adopt a 4.5 percent offset for intrastate services. Experience has shown that this rejection was in error.

A panel of three administrative law judges for the Pennsylvania Public Utility Commission recently recommended that the PUC reject an incentive regulation plan offered by

³ See Notice, ¶¶ 43-55.

⁴ Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2176 (1990) ("Supplemental Notice").

⁵ Supplemental Notice, ¶ 90.

Bell Atlantic in part because the proposed productivity factor was too low.⁶ In that decision, the judges proposed a 5.29 percent factor based on productivity growth in the telephone industry. This figure is consistent with MCI's suggestion to the FCC.⁷ Accordingly, ARINC urges the Commission to adopt a productivity factor in the range of 5 to 6 percent that would more accurately reflect the true efficiency gains in the telephone industry.

Moreover, the price cap rules -- and particularly the earnings sharing mechanism -- have not adequately accommodated significant reductions in interest rates over the past several years. The LECs' cost of capital has declined considerably since the adoption of price cap regulation, resulting in a substantial windfall for the LECs.⁸ The FCC should therefore take this opportunity to amend its rules to accommodate such marketplace changes.

A study performed by the Consumer Federation of America ("CFA") underscores the pernicious impact of these deficiencies in the existing price cap rules.⁹ CFA's study documents the excess earnings of the Regional Bell Operating

⁶ Communications Daily, May 2, 1994, at 2.

⁷ See Notice, ¶ 52.

⁸ See id., ¶ 54.

⁹ Dr. Mark N. Cooper, "Milking the Monopoly: Excess Earning and Diversification of the Baby Bells Since Divestiture," Consumer Federation of America, February 1994.

Companies ("RBOCs") resulting from their ability under those rules to set rates for monopoly services that achieve supra-normal returns. As a result, consumers of telephone services have been denied billions of dollars in savings attributable to the very efficiencies they have paid to incorporate in the network. It follows that not only would it be premature to remove the earnings limitations now in the rules, but they also should be adjusted downward substantially.¹⁰

2. Baseline Issue 7a

Finally, ARINC is concerned that the price cap rules -- as applied and enforced -- have in some cases unreasonably caused monopoly ratepayers rather than the LECs to bear the costs of network infrastructure improvements.¹¹ For example, the Commission recently allowed the LECs to establish rates for their 800 database deployment that included substantial SS7 endogenous costs that should have been borne by LEC shareholders.¹² Although the rates are currently under investigation, absent strict application of the price cap policies, 800 database deployment may serve as a windfall opportunity for the LECs to unfairly make 800 subscribers pay

¹⁰ Cf. Notice, ¶ 52.

¹¹ See id., ¶¶ 67, 72.

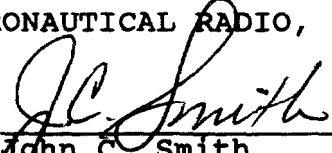
¹² See generally 800 Data Base Access Tariffs and the 800 Service Management System Tariff, "Comments of Aeronautical Radio, Inc.," filed April 15, 1994.

for a natural network signalling evolution. Thus, the Commission should adopt appropriate mechanisms that would require a reasonable portion of any increased LEC earnings from price caps -- rather than ratepayer dollars from increased rates -- to be invested in the network.

* * *

For the foregoing reasons, ARINC urges the Commission to increase the productivity factor and otherwise modify its price cap rules as described above to ensure that ratepayers as well as carrier shareholders benefit from increasing efficiencies in the provision of telecommunications services to the public.

Respectfully submitted,
AERONAUTICAL RADIO, INC.

By: 
John C. Smith
General Counsel
2551 Riva Road
Annapolis, MD 21401
(401) 266-4612

May 9, 1994

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 1994, I caused copies of the foregoing "Comments of Aeronautical Radio, Inc.," to be hand-delivered to the following:

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Kim Riddick